

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X)	
VANIA SIMPRI,)	NOTICE OF REMOVAL
Plaintiff,)	
v.)	
MATHIEU REMILLARD; 2857-2899)	Civil Action No. _____
QUEBEC INC.; and MTY EXPRESS,)	
Defendants.)	
-----X)	ELECTRONICALLY FILED

To: UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AND NOW, Come the Defendants, Mathieu Remillard and 2857-2899 Quebec Inc. dba MTY Express¹ sued improperly herein as 2857-2899 Quebec Inc. and MTY Express (collectively "Defendants"), by and through their attorneys, Dickie, McCamey & Chilcote, P.C., and pursuant to 28 U.S.C. § 1441 *et seq.*, assert the following in support of this Notice of Removal of the above-captioned action from the Supreme Court of the State of New York, County of Putnam to the United States District Court for the Southern District of New York:

1. A civil action entitled *Vania Simpri v. Mathieu Remillard, 2857-2899 Quebec, Inc., and MTY Express* was commenced via Summons and Verified Complaint filed on or about November 23, 2021 in the Supreme Court of the State of New York, County of Putnam at Index No. 501627/2021. A true and correct copy of Plaintiff's Summons and Verified Complaint is appended hereto as **Exhibit A**.

¹ MTY Express is a trade name under which 2857-3899 Quebec Inc. does business.

2. Plaintiff alleges service on 2857-2899 Quebec Inc. dba MTY Express via Registered Mail on or about April 1, 2022. A true and correct copy of the United States Postal Service delivery confirmation is appended hereto as **Exhibit B**.

3. Plaintiff alleges Mathieu Remillard was served with Plaintiff's Verified Complaint via Registered Mail on or about April 1, 2022. A true and correct copy of the United States Postal Service delivery confirmation is appended hereto as **Exhibit C**.

4. Per the averments in Plaintiff's Verified Complaint, this negligence-based action arises from an April 9, 2018 motor vehicle accident occurring on Interstate 684 (South) near Mile Post Marker 23.1.

5. There exists complete diversity of citizenship between Plaintiff and Defendants, specifically:

- a. Plaintiff is a citizen of New York, residing in Putnam County, New York;
- b. Mr. Remillard is a citizen of Canada, residing at 1 Boivin Street, Saint-Francois-de-la-Riviere-du Sud, Quebec, Canada G0R 3A0; and
- c. 2857-2899 Quebec Inc. dba MTY Express is a corporation organized and existing under the laws of Canada which maintains its principal place of business at 25 de l'Etang Street, Saint-Francois-de-la-Riviere-du Sud, Quebec, Canada G0R 3A0.

6. The Verified Complaint alleges "serious traumatic protracted and permanent personal injuries," including "serious injuries" as defined by NY CLS Ins § 5102(d) which allow for the recovery of non-economic damages. Moreover, Plaintiff further seeks to recover damages for pain, shock, and mental anguish arising from the accident in-suit. Given the allegations in Plaintiff's Verified Complaint regarding serious and permanent injuries, Defendants reasonably believe this action alleges an amount in controversy exceeding this Court's jurisdictional threshold of \$75,000.00.

7. Section 5102(d) of the Insurance Law of the State of New York requires a "fracture and/or significant disfigurement; a permanent loss of use of a body organ or a member, function and/or a significant limitation of use of a body function and/or system

and/or medically determined injury or impairment of non-permanent nature which prevents him from performing substantially [all] of the material acts which constitutes the usual and customary daily activities for not less than ninety days during the one hundred eighty days immediately following the occurrences of the injury or impairment”.

8. This Notice of Removal is filed within thirty days of the April 1, 2022 alleged date-of-service of Plaintiff's Verified Complaint upon Defendants, which constituted the initial pleading setting forth a claim for relief upon which this action is based.

9. This action, thus, is one over which the District Courts of the United States possess original jurisdiction pursuant to 28 U.S.C. § 1332: there exists complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy is alleged to exceed the sum or value of \$75,000.00, exclusive of interest and costs.

10. Written notice of the filing of this Notice of Removal will be promptly served upon counsel for Plaintiff after the filing of the same with the United States District Court for the Southern District of New York, as required by law.

11. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Putnam.

12. By filing this Notice of Removal, Defendants do not waive any defenses, including proper service and jurisdiction, which may be available to them in this action.

WHEREFORE, Defendants, Mathieu Remillard and 2857-2899 Quebec Inc. dba MTY Express, respectfully request that this Honorable Court assume subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1441 *et seq.* and 1332, as set forth above in this Notice of Removal.

Respectfully submitted by,

DICKIE, McCAMEY & CHILCOTE, P.C.


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Attorneys for Defendants, Mathieu Remillard,
2857-2899 Quebec Inc. dba MTY Express

CERTIFICATE OF SERVICE

Beverly M. Barr, Esquire, hereby certifies that on May 2, 2022 the within Notice of Removal has been served by regular mail on counsel of record for Plaintiff:

Paul A. Carmona, III, Esquire
Carmona Law Group, PLLC
155 Main Street, Suite 309
Brewster, New York 10509

I certify that the foregoing statements made by me are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements are made willfully false, I am subject to punishment.

A handwritten signature in black ink, appearing to read 'B. Barr', written over a horizontal line.

Beverly M. Barr, Esq. (BB2665)

White Plains, New York
May 2, 2022